AN ACT PROVIDING PROTECTION TO FREELANCERS AND FOR OTHER PURPOSES

The worldwide web has opened a lot of doors in terms of access to information, social networking, entertainment, banking and almost every other sphere of life. One important kind of opportunity that the web offers is freelance jobs through online job hosting sites.

Freelancing is very attractive to young Filipinos who want to break free from traditional 8-to-5 jobs and be allowed them the convenience to work from home, or from remote areas and provinces while still earning enough for themselves and their families.

The latest available date shows that there are at least 1.5 million Filipinos engaged in freelancing. These jobs are wide-ranging, from content generation for various corporations, medical transcription, financial analysis, virtual assistance and other highly competitive fields.

However, the web also takes away some of the positives that traditional employment offers such as right to organization and the coverage of our labor laws based on an a clearly defined territorial jurisdiction.

This measure recognizes the changing landscape of how jobs are performed by granting the protection of law for the unique circumstances of freelancers by putting their safety and welfare into consideration, among other things.

In view of the foregoing, the passage of this bill is most earnestly sought.

LUI S RAYMUND “LRAY” F. VILLAFUERTE, JR.
Republic of the Philippines

HOUSE OF REPRESENTATIVES
Quezon City

EIGHTEENTH CONGRESS
Second Regular Session

HOUSE BILL NO. 7790

Introduced by HON. LUIS RAYMUND "LRAY" F. VILLAFUERTE, JR.

AN ACT PROVIDING PROTECTION TO FREELANCERS
AND FOR OTHER PURPOSES

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

SECTION 1. Short Title. – This Act shall be known as the "Freelancers Protection Act."

SEC. 2. Declaration of Policy. – It is the policy of the State to promote gainful employment and decent work for all workers. Towards this end, the State shall provide a regulatory framework that guarantees full protection to all workers in new forms of work arrangements, such as freelance work, whether in-person or through online platforms or gig economy, which has grown exponentially with technological development, weakening labor rights and changing concepts of work and employer employee relationship.

SEC. 3. Coverage. – This Act shall cover all freelancers, regardless of the profession, talent, skills, task, work or service required or to be rendered.

SEC. 4. Definition of Terms. – As used in this Act, the following terms shall mean:

a) Client - refers to any foreign or Philippine-based person, company or entity, or platform provider who engages a freelancer to render specific task, work or service in-person or online;

b) Crowdwork - refers to online work through platforms that connect vast numbers of clients, organizations, and businesses, often across borders. It is performed online by an infinite number of workers for clients spread over large geographic distance;

c) Freelance worker or freelancer - refers to any natural person who offers or renders a task, work or service through his or her freely chosen means or methods, free from any forms of economic dependence, control or supervision by the client, regardless
of whether he or she is paid by results, piece, task, hour, day, job or by the nature of the services required;
d) Freelance work - refers to work that is infrequent, unpredictable and short term, and rendered in-person, online, or through any online web platforms, such as crowdwork, work on-demand or any digital lifestyle applications;
e) Platform provider - refers to any foreign or Philippine-based online web platform provider that connects workers with the consumer of work and facilitate the exchange of goods and services for money such as crowdwork, work on demand or any digital lifestyle applications, that provides facilities, accounts, and training for one or several freelancers in the Philippines;
f) Work on-demand - refers to the platform-facilitated yet place-based and geographically limited work;
g) Written contract - refers to a document, whether electronic file or printed copy, reflecting the mutual consent of the parties to be bound by the terms and conditions of their freelance work engagement and the consideration for the services rendered by the freelancer.

SEC. 5. Contractual Relations. — The relationship between the client and the freelancer, absent proof of existence of employer-employee relationship, shall be governed primarily by applicable civil and commercial laws. In no case however, shall the terms and conditions thereof derogate the rights of workers guaranteed by the Philippine Constitution or be lower than the minimum standards provided by the Labor Code of the Philippines, as amended, or by industry standards and international labor standards.

SEC. 6. Rights of Freelancers. — The State shall accord to freelancers all the rights of workers guaranteed under the 1987 Philippine Constitution, applicable provisions of the Labor Code of the Philippines, as amended, and relevant international human rights instruments and international labor standards. For this purpose, the State shall ensure the formulation by concerned agencies of policies and programs for the free exercise of the following:

(a) Right to a written contract or agreement;
(b) Right to just compensation and equal remuneration for work of equal value without manipulation or distinction of any kind;
(c) Right to safe and healthy working conditions;
(d) Right to self-organization and to collectively negotiate with the government, the client, and other entities for the promotion of their welfare and in the advancement of their rights and interests;
(e) Right to be free from any form of discrimination, violence, sexual harassment, and abuse;
(f) Right to representation and participation in policy and decision-making processes and social dialogue;
(g) Right to access their own data, information and resources for the promotion and protection of their rights and welfare;
(h) Right to affordable and adequate financial services, including, among others, collateral-free and gender-balanced credit at low interest;
(i) Right to education and skills training;
(j) Right to social protection and social welfare benefits; and
(k) Right to speedy redress of grievances, including alternative dispute resolution processes.

SEC. 7. Standards for Freelance Work. – The Department of Labor and Employment (DOLE) shall ensure:

a) Compliance with the written contract between the freelancer and the client, which shall be in a language understood by both parties. Each party to the contract shall retain a copy thereof, and shall include, at the minimum, the following:

1) Itemization of all work and/or services to be provided by the freelancer and the terms and conditions of the engagement;
2) The rate and method of compensation, date on which the client shall pay the compensation or the mechanism by which such due date shall be determined;
3) The name and registered address of the client, and in the case of a foreign or foreign-based entity, the name and address of the local agent or representative, or any duly acknowledged representative based in the Philippines; and
4) Any other terms and conditions that govern the performance of the mutual obligations of the parties that are not contrary to law, morals, good customs, public order or public policy.

In the absence of a written agreement, any written exchange or proof of submission and receipt of completed task, work or service subject of the freelance work engagement, whether electronic or printed, shall be sufficient basis for claim for compensation or payment against the client;

b) Registration of freelancers or freelancers’ association in the DOLE registry of freelancers and provide them with labor market interventions and assistance; Provided, That registration with the DOLE shall not be construed as a requirement to be able to engage as a freelancer;

c) Free exercise of freelancers’ right to self-organization and to collectively negotiate with the government, the client, and other entities for the promotion of their welfare and in the advancement of their rights and interests, and to their representation and participation in policy and decision-making processes and social dialogue;

d) Observance of programs and policies on non-discrimination, absence of violence, sexual harassment, and abuse in freelance work environment;

e) Entering into bilateral or multilateral agreements with countries where online web platforms are registered or located for the protection and enforcement of Philippine freelancers’ rights.

SEC. 8. Right to access their own data and information. – The Department of Information and Communications Technology (DICT) shall conduct trainings for online freelancers, and in coordination with the appropriate regulating agency, such as the Department of Transportation (DOTr) and the Department of Trade and Industry (DTI), ensure that freelancers engaged with or through platform providers
or online web platforms shall have access to their own data, information and resources for the promotion and protection of their rights and welfare.

SEC. 9. Right to affordable and adequate financial services. – The DTI and other government financial institutions shall provide freelancers access to affordable and adequate financial services, including, among others, collateral-free and gender balanced credit at low interest.

SEC. 10. Right to education and skills training. – The Technical Education and Skills Development Authority (TESDA) and other government agencies, such as the Department of Science and Technology (DOST), DTI and DICT shall provide training and certifications for upskilling and entrepreneurial enhancement of freelancers.

SEC. 11. Right to social protection and social welfare benefits. – The Social Security System, Philippine Health Insurance Corporation (PhilHealth) and Home Development Mutual Fund (HDMF) shall ensure a simplified and online registration and remittance process for freelancers as self-employed workers and provide easy access to members' benefits such as sickness and unemployment benefits.

SEC. 12. Right to simplified tax registration, filing and payment system. – The Bureau of Internal Revenue (BIR) shall simplify and automate the registration process and minimize the requirements for the registration of freelancers. The BIR shall also further enhance the online filing of tax returns and payment of appropriate taxes, including online submission of requirements. It shall also provide assistance to freelancers in their application, registration, and processing of documents, and other inquiries.

SEC. 13. Right to redress of grievances, including alternative dispute resolution processes. – The right of freelancers to seek redress for grievances and to avail of alternative dispute mechanisms in accordance with law shall be guaranteed. For this purpose, the DOLE shall conduct seminars on the legal recourse available to freelancers, and as far as practicable, encourage the parties to a freelance work agreement to avail of alternative dispute mechanisms.

SEC. 14. Payment; Burden of Proof. – Except as otherwise provided under the contract entered into by the parties, the agreed compensation shall be paid in full not later than thirty (30) days after the completion of the task, work or service subject of the freelance work engagement. The burden of proving the payment of the compensation or consideration due to the freelancer as agreed under the contract shall rest on the client, upon proof of performance or completion of the job or service contracted.

SEC. 15. Prohibited Acts. – The following acts shall be prohibited under this Act:

a) Contract Alteration. Once performance of the work or service under the contract has commenced, no freelancer shall be required to accept less than the specified or agreed contract price, as a condition for the payment of the service or work rendered: Provided, That nothing herein precludes the parties from arriving at a settlement in good faith of a dispute arising out of or in connection with the contract or from agreeing to a modification of the contract in accordance with applicable laws.
b) *Deduction.* No deduction shall be made on the agreed contract price or compensation, unless the parties have agreed otherwise, or such deduction is on account of payment of applicable taxes.

c) *Waiver.* Except as otherwise provided by law, any provision of any contract entered into by a freelancer and a client purporting to waive any of the rights provided under this Act shall be void as against public policy. Any person who commits any of the foregoing prohibited acts shall be meted a fine equivalent to up to three times the contract price or compensation agreed upon in the contract between the freelancer and the client.

**SEC. 16. Public Awareness Program.** – The DOLE, DTI, DICT and other relevant agencies shall raise public awareness on the rights and welfare of freelancers. Information dissemination on the provisions of this Act, its implementing rules and regulations and capacity building on reasonable pricing of task, work or service, payment methods, entrepreneurship and career development in freelance work shall also be conducted.

**SEC. 17. Prospective Application.** – This Act shall apply to contracts or agreements entered into on or after the effectivity of this Act.

**SEC. 18. Applicability to Freelancers in the Public Sector.** – The Civil Service Commission shall issue the appropriate rules and regulations applicable to freelancers in the public sector to ensure compliance with the rights and privileges granted to freelancers under this Act, subject to applicable laws, rules and regulations governing workers in the public sector.

**SEC. 19. Implementing Rules and Regulations.** – Within sixty (60) days from the effectivity of this Act, the DOLE, DTI, DICT, DOST, TESDA, DOTr, upon consultation with the BIR, SSS, PhilHealth and HDMF, and other relevant agencies and sectors, shall promulgate the implementing rules and regulations as may be necessary to carry out the provisions of this Act.

**SEC 20. Separability Clause.** – If any part of this Act shall be held unconstitutional or invalid, other parts not otherwise affected thereby shall remain in force and effect.

**SEC. 21. Repealing Clause.** – All laws, decrees, resolutions, orders, or ordinances or parts thereof inconsistent with this Act are hereby repealed, amended or modified accordingly.

**SEC. 22. Effectivity.** – This Act shall take effect fifteen (15) days after its publication in the Official Gazette or in one (1) newspaper of general circulation.

*Approved,*